

# **WISCONSIN LEGISLATIVE COUNCIL STAFF**

## ***RULES CLEARINGHOUSE***

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## **CLEARINGHOUSE RULE 00-177**

### **Comments**

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

### **2. Form, Style and Placement in Administrative Code**

a. The title to subch. IX should be written in solid capital letters. [See s. 1.05 (2) (a), Manual.]

b. Section NR 47.912 (10) should be rewritten to read: “‘Municipality’ means a city, village or town.”

c. In s. NR 47.913 (1) (b) (intro.), the phrase “do all of the following” should be inserted before the colon. The entire rule should be reviewed for the use of phrases such as “all of the following” or “any of the following” in introductory material that leads into following subunits. The use of these phrases will clearly indicate to the reader whether all conditions, or only one condition, need be met.

d. In s. NR 47.913 (2) (b) (intro.), the word “either” should be replaced by the phrase “any of the following.” Also, subds. 1. to 3. should end in periods rather than semicolons. The entire rule should be reviewed for appropriate use of punctuation at the end of lists. In addition, it is noted that sub. (2) contains no par. (c). Why? Finally, subds. 3. and 4. of par. (d) should be relocated into another rule section. Those subdivisions relate to egg mass surveys and not to the criteria applicable to an eligible treatment block. Also, in order to meet all contingencies, in subd. 3. it would be clearer to define the acreage in terms of phrases such as “40 to 50 acres” and “more than 50 acres to not more than 100 acres.”

e. Because s. NR 47.914 (7) (intro.) does not appear to be actual introductory material, it should be designated par. (a) and the remaining paragraphs redesignated accordingly.

f. It appears that the material in s. NR 47.915 (1) (a) to (c) could be better placed in a table. Doing so may make the rule easier to read and would eliminate the need to use terms such as “cost-shared.”

g. In s. NR 47.914 (7) (b), the word “herein” should be replaced by the phrase “in this paragraph.” In sub. (8), since an applicant is defined to mean a Wisconsin county or municipality, it appears that the phrase “his or her” should be replaced by the word “its.” Finally, in sub. (10), the semicolon should be deleted and the word “occurs” should be replaced by the word “exists.”

h. In s. NR 47.915 (1) (intro.), the phrase “pars. (a) to (d)” should be replaced by the phrase “the following paragraphs” and the introduction should conclude with a colon.

i. In s. NR 47.917 (1) (intro.), the third sentence should be made the last sentence of the introduction and the introduction should conclude with a colon.

j. In s. NR 47.917 (1) (g), the phrase “salary/wage and benefits” should be replaced by the phrase “salary, wage and benefits.” In par. (h), the phrase “is reimbursable but must be no more than the DOT standard rates” should be replaced by the phrase “, not to exceed the standard rates set by the department of transportation . . . .” The reference to the standard rates should include a citation to appropriate statutory or administrative code provisions, if they exist.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. In s. NR 47.912 (12), a note should be included indicating where the referenced federal document can be obtained or viewed.

b. Section NR 47.914 (3) requires applicants to use a certain form. A note should be included in the rule indicating the address that a person may write to, or the telephone number that a person may call, in order to obtain the form; if the form is available on the Internet, the note should indicate a Web site from which the form may be obtained. [See s. 1.09 (2), Manual.]

c. Section NR 47.914 (7) (a) 2. refers to a “class 1 legal notice.” An appropriate statutory cross-reference should be provided to better identify the type of notice required.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the cover letter analysis to the rule, the word “laws” at the end of the second paragraph should, it appears, be “lawns.” In addition, at the end of the third paragraph, the word “effect” should be replaced by the word “effective” and the phrase “they value” should be replaced by “it values.” Finally, in the last sentence of the analysis, the word “about” should be inserted after the word “requirements.”

b. In the last paragraph of the fiscal estimate, should the figure “\$30,00” be “\$30,000” or some other number?

c. In s. NR 47.910, in the second sentence, the phrase “will include” should be replaced by the word “includes.” Also, should the word “funds” be inserted after the word “sharing”?

d. In s. NR 47.912 (4), can the definition of the term “buffer zone” be modified to read “means a perimeter extending 250 feet around a treatment block”?

e. In s. NR 47.912 (13), the word “be” should be inserted before the word “eligible.”

f. Section NR 47.913 (1) provides for applications to be made between November 2000 and July 2001. It is noted that November and December 2000 are already completed. Also, may municipalities not apply after July of 2001?

g. Section NR 47.913 (1) (b) 7. refers to “treatment residents.” What are these? Are they residents within a treatment block? If so, could the word “treatment” be deleted? Also, in subd. 8., what are “spray objectors”?

h. Section NR 47.914 (7) (b) 2. refers to the publication of a notice at least seven days prior to a deadline designated in the notice for registering an objection by a landowner or tenant. Subdivision 3. refers to a public meeting conducted by an applicant and held at least seven days prior to the objection deadline. Reading these provisions together, it appears that the notice of the deadline for registering an objection can be published on the day a public meeting is conducted. Is that the intent of the rule?

i. Section NR 47.914 (8) refers to a “250 foot surrounding buffer zone.” Since “buffer zone” is a defined term, the phrase “250 foot surrounding” is redundant and should be deleted. Also, in the third sentence, for consistency, the term “treatment” should be inserted before the word “block.” Finally, in the last sentence the word “will” should be replaced by the word “shall.”

j. Section NR 47.914 (10) refers to giving notice to “persons requesting 24-hour notification.” How does a person request this? Can persons request a longer notification period? Does the rule address other special requests? The rule should be clarified.

k. Section NR 47.916 (3) provides that “all payments are contingent upon final audit.” What does this mean? Does this mean that no payments may be made until a final audit is completed? Such an interpretation would seem to conflict with the next sentence that appears to contemplate audits within four years of final payment. Can this provision be clarified? Also, is the audit mandatory? The second sentence seems to imply that the department auditors might conduct an audit within four years of final payment. Is that the intent?